IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

CRP.No. 66 of 2005()

AGAINST THE ORDER DATED 21/12/2004 IN EP.33/2004 IN ARBITRATION CASE NO.909/2002 of MUNSIFF COURT'S, VADAKARA

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REVN. PETITIONER: 3RD RESPONDENT - SURETY

LAKSHMANAN, KATTIL HOUSE,
CHORODE POST, VATAKARA TALUK.

BY ADV. SRI.MOHANAN V.T.K.

RESPONDENT: PETITIONER – DECREE-HOLDER

SREE GOKULAM CHIT AND FINANCE COMPANY
(P) LTD.NO.66 (OLD NO.356) AROOT ROAD,
KODAMBAKKAM, CHENNAI-24, THROUGH POWER OF
ATTORNEY HOLDER, P.JAYAKUMAR, 31 YEARS,
S/O.KUTTIKRISHNA KURUP, PEECHAMBARAMBATH HOUSE,
CHORODE POST, VATAKARA TALUK.

BY ADV. SRI.K.S.BABU
SMT.N.SUDHA

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 21/08/2007, ALONG WITH CRP NO.1093 OF 2005, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

I.A.166/05 IN C.R.P.NO.66/2005

DISMISSED

21.8.2007 SD/-PIUS C.KURIAKOSE, JUDGE

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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C.R.P.Nos.66 & 1093 OF 2005

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DATED THIS THE 21st AUGUST, 2007

O R D E R

Identical orders are impugned in these Civil Revision Petitions. When the awards of the Chitty Registrar passed in favour of the respondent-Company in terms of Section 64 of the Chit Funds Act, 1982 were put in execution, it was contended by the petitioners-judgment-debtors that being awards passed by the Arbitration Court, it is the District Court alone which has got jurisdiction in terms of Section 8 of the Arbitration and Conciliation Act, 1996 and not the Sub Court. The above contention, according to me, was rightly repelled by the execution court.

2. Amendment application has been filed in C.R.P.No.1093 of 2005 for incorporating the following additional ground:- "Since the Chitties Act is not enforced in Kerala, an award passed by Arbitration Court, Chennai (the Registrar under the Chit Funds Act, 1982) cannot be enforced in Kerala as a decree of Civil Court". This ground is founded on a decision of this Court in **Krishnamoorthy v. Khaleel Rahman** (1996 (2) KLT 788) wherein this Court, after noticing that the Chit Funds Act, 1982 has not been made applicable in the State of Kerala by a notification issued in that regard by the Central

Government, found that the civil courts cannot treat the orders passed by the Registrar under the Chit Funds Act, 1982 as decrees of civil court and therefore civil courts in Kerala cannot execute such orders. As submitted by Smt.Sudha, counsel for the respondent, this was not a ground taken before the execution court. However, being a ground which relates to the fundamental jurisdiction of the execution court to entertain the execution petition, I am inclined to permit the petitioners to raise this ground. It is not disputed before me that the Chit Funds Act, 1982 is yet to be extended to the State of Kerala.

3. I set aside the impugned orders and direct the execution court to permit the petitioners to raise the abovequoted ground as additional objection to the execution petition. Once that ground is raised pursuant to this order, the execution court will hear both sides on that ground and take a fresh decision regarding executability of the award before that court. Fresh decision as directed above will be taken at the earliest and at any rate within two months of receiving copy of this order.

The Civil Revision Petitions are disposed of as above. No costs.

(PIUS C.KURIAKOSE, JUDGE)

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